

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON
PORTLAND DIVISION

LARRY FUQUA,)	No. 3:11-CV-01463-ST
)	
Plaintiff,)	
)	
v.)	ORDER ADOPTING
)	FINDINGS & RECOMMENDATION
THE KENAN ADVANTAGE GROUP)	
INC. aka REINHARD)	
TRANSPORTATION/KAG WEST,)	
)	
Defendant.)	
_____)	

SIMON, District Judge.

On April 13, 2012, Magistrate Judge Janice Stewart issued Findings and Recommendation (Dkt. 38) in this case. Judge Stewart recommended deferring Defendant The Kenan Advantage Group Inc.’s Motion to Compel Arbitration and to Dismiss, or in the Alternative, to Stay This Action (Dkt. 11), pending trial as to whether the parties formed a contract agreeing to arbitration. The matter is now before me pursuant to the Magistrates Act, 28 U.S.C. § 636(b)(1)(B), and Rule 72(b) of the Federal Rules of Civil Procedure. Under the Magistrates Act, the court may “accept, reject or modify, in whole or in part, the findings or recommendations made by the magistrate.” 28 U.S.C. § 636(b)(1). If a party files objections to a

magistrate's findings and recommendations, "the court shall make a *de novo* determination of those portions of the report or specified proposed findings or recommendations to which objection is made." *Id.*; Fed. R. Civ. P. 72(b)(3); *Dawson v. Marshall*, 561 F.3d 930, 932 (9th Cir. 2009). *De novo* review means that the court "considers the matter anew, as if no decision had been rendered." *Dawson*, 561 F.3d at 933.

Defendant filed timely objections to a portion of Judge Stewart's Findings and Recommendation. After *de novo* review, I ADOPT Judge Stewart's Findings and Recommendation (Dkt. 38) for the reasons stated therein. Accordingly, Defendant's Motion to Compel Arbitration and to Dismiss, or in the Alternative, to Stay This Action (Dkt. 11) is DEFERRED pending trial on the existence of an agreement to arbitrate. The parties are ordered to submit a joint proposed expedited case-management plan for trial.

Dated this 11th day of July, 2012.

/s/ Michael H. Simon
Michael H. Simon
United States District Judge